



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Executive Associate Commissioner

425 I Street NW
Washington, DC 20536

JAN 5 2000

Roger Bernstein
Hackley, Bernstein & Osberg-Braun, Attorneys at Law
Tumberry Plaza
2875 191st Street, Penthouse 1B
Aventura, FL 33 180

Spencer Eig
420 Lincoln Road, Suite 379
Miami Beach, FL 33 139

Dear Messrs. Bernstein and Eig,

We have received the letters you have sent regarding your claim to represent **Elian** Gonzalez and appreciate your meeting with us in Miami on December 20th to discuss this matter. We understand that you continue to assert that, through his direct consent and the consent of Lazaro Gonzalez, you represent **Elian** Gonzalez. After consulting with her legal advisors and carefully considering this matter, the Commissioner of the INS has made several determinations, of which I am now prepared to inform you.

The INS has been in direct contact with Juan Miguel Gonzalez-Quintana. Mr. Gonzalez-Quintana has provided reliable documentation that he is **Elian's** biological father and that he now has legal custody of the child under Cuban law. As such, he has the right and obligation to represent **Elian** in all legal transactions and acts in which **Elian** has an interest. Therefore we have determined that Mr. Gonzalez-Quintana has the authority to speak for his son in immigration matters. After carefully considering all relevant factors, we have determined that there is no conflict of interest between Mr. Gonzalez-Quintana and his son, or any other reason, that would warrant our declining to recognize the authority of this father to speak on behalf of his son in immigration matters. Further, we took steps to ensure that Mr. Gonzalez-Quintana could express his true wishes at our interviews with him, and after carefully reviewing the results of the interviews, we are convinced that he did so.

You and your associates have submitted several Forms G-28, Notice of Entry and Appearance as Attorney, for **Elian**. Some of these Forms G-28 were signed by Lazaro Gonzalez on behalf of **Elian**. On others, **Elian** himself has printed his first name. After careful consideration, we have determined that we cannot recognize any of the Forms G-28 as authorizing you to represent **Elian** in immigration matters. Although the INS has placed **Elian**

Roger Bernstein
Spencer Eig
P a g e 2

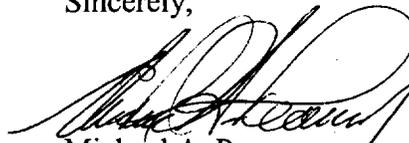
in the physical care of Lazaro Gonzalez, such placement does not confer upon Lazaro Gonzalez the authority to act on behalf of **Elian** in immigration matters or authorize representation in direct opposition to the express wishes of the child's custodial parent. Further, we do not believe that **Elian** Gonzalez, who recently turned six years old, has the legal capacity on his own to authorize you to represent him. Finally, Mr. Gonzalez-Quintana has expressly declined to authorize you or your firms to represent **Elian**. Therefore, the INS cannot recognize you as **Elian's** representatives.

In our direct conversations with Mr. Gonzalez-Quintana, he has repeatedly informed us of his decision not to assert **Elian's** right to apply for asylum. You have prepared and submitted asylum applications on **Elian's** behalf, one of which was signed by **Elian**. After careful consideration, we have determined that **Elian** does not have the capacity to apply for asylum without the assistance of his parent. Further, neither the applications you have submitted nor any other information available indicates that **Elian** would be at risk of harm in Cuba such that his interests might so diverge from those of his father that his father could not adequately represent him in this matter. Therefore, given Mr. Gonzalez-Quintana's decision not to assert **Elian's** right to apply for asylum, we cannot accept the asylum applications you have submitted on **Elian's** behalf.

Mr. Gonzalez-Quintana has also repeatedly requested that **Elian** be returned immediately to his custody in Cuba. We consider this to be a request to withdraw **Elian's** application for admission to the United States, made by **Elian's** custodial parent with authority to speak for **Elian** in immigration matters. Therefore, we have granted Mr. Gonzalez-Quintana's request to withdraw **Elian's** application for admission to the United States.

We appreciate your cooperation as we considered your claims to represent **Elian**.

Sincerely,



Michael A. Pearson
Executive Associate Commissioner
for Field Operations